

JOE WARDY  
MAYOR

JOYCE WILSON  
CITY MANAGER



## CITY COUNCIL

SUSAN AUSTIN  
DISTRICT NO. 1

ROBERT A. CUSHING, JR.  
DISTRICT NO. 2

JOSE ALEXANDRO LOZANO  
DISTRICT NO. 3

JOHN F. COOK  
DISTRICT NO. 4

PRESI ORTEGA, JR.  
DISTRICT NO. 5

PAUL J. ESCOBAR  
DISTRICT NO. 6

VIVIAN ROJAS  
DISTRICT NO. 7

ANTHONY W. COBOS  
DISTRICT NO. 8

REGULAR COUNCIL MEETING  
COUNCIL CHAMBERS  
JUNE 7, 2005  
9:00 A.M.

The City Council met in regular session at the above place and date. Meeting was called to order at 9:08 a.m. Mayor Joe Wardy present and presiding and the following Council Members answered roll call: Susan Austin, Robert A. Cushing, Jr., Jose Alexandro Lozano, John F. Cook, Presi Ortega, Jr., Vivian Rojas, and Anthony W. Cobos. Late arrival: Paul J. Escobar at 9:17 a.m. Absent: None. The invocation was given by Reverend Lisle H. Davis, followed by the Pledge of Allegiance to the Flag of the United States of America.

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**MAYOR'S PROCLAMATION**

***NATIONAL CANCER SURVIVORS DAY***

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**NO ACTION WAS TAKEN** regarding Jane Ratcliff of Northeast El Paso, would like to express her gratitude and appreciation to Rep. Robert A. Cushing, Jr. [Jane Ratcliff]

The following members of the public commented:

1. Ms. Jane Ratcliff
2. Mr. Ray Gilbert
3. Mr. Charlie Wakeem

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**NO ACTION WAS TAKEN** regarding The Central Neighborhood Association and the Manhattan Heights Neighborhood Association, would like to present a Certificate of Appreciation to Rep. Robert A. Cushing, Jr. and thank him for all his hard work. [Jorge Almada]

The following members of the public commented:

1. Mr. Jorge Almada, President of the Central Neighborhood Association
2. Ms. Becky Friesenhahn, President of the Manhattan Heights Neighborhood Association
3. Ms. Ana Nuñez, President of the El Paso Lower Valley Neighborhood Association

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Motion made by Representative Cobos, seconded by Representative Lozano and unanimously carried to **APPROVE, AS REVISED**, all matters listed under the Consent Agenda unless otherwise noted. (Items approved, postponed, or deleted pursuant to the vote on the Consent Agenda will be shown with an asterisk {\*}).  
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\*Motion made Representative Cobos, seconded by Representative Lozano and unanimously carried to **APPROVE** the Minutes for the Regular City Council Meeting of May 31, 2005.

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**\*RESOLUTION**

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:**

That the Classification and Compensation Plan shall be amended, as recommended by the Civil Service Commission. The class of **MUNICIPAL COURT SENTENCING COORDINATOR** is hereby created as specified in the duties and responsibilities attached hereto. The Code is **5326**. The Grade is **PM 75**.

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**RESOLUTION**

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:**

That the Mayor be authorized to sign a COPS Grant, including all necessary documents, letters, understandings and assurances contained therein, and accept a grant in the amount of \$48,473.00 from the U.S. Department of Justice, for a COPS 2005 Secure our Schools grant to continue the CODE BLUE Program in schools in the El Paso area. Funding requested under this grant will be utilized to provide training, training material and equipment to assist public and private schools to develop school-specific exercise plans with first responder agencies. Educational and law enforcement personnel will continue to be educated in critical incident management; authorizing the City Manager or her designee to sign any related paperwork, including all understandings and assurances contained therein, and apply for, accept, reject, alter, or terminate the grant and authorize budget transfers; submit any necessary revisions to the operational plan; that the grant officials be as designated in the agreement; and that the City Manager be authorized to execute on behalf of the City of El Paso, any grant amendments or corrections to the initial Grant Agreement which increase, decrease or deobligate program funds provided that no additional City funds are required, or which decrease the amount of matching funds, and any documents to request and accept an extension of the award ending date for the grant. The grant requires a cash match of 50% in the amount of \$48,473.00, which will come from Confiscated Funds, account # 21150060-500231-16371, for a total amount of \$96,946.00 of which only \$1,400.00 is obligated for materials and supplies within the amount allowed by Lame Duck provisions.

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\*Motion made by Representative Cobos, seconded by Representative Lozano and unanimously carried to **APPROVE** the request for the following names to be placed on the Reinstatement list in accordance with Article VI, Section 6.10-10, of the Civil Service Charter Provisions:

Police Department

Bolivar, Oscar – Police Officer  
Howell, Lorene - Secretary I  
Payan, Jesus – Police Officer

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\*Motion made by Representative Cobos, seconded by Representative Lozano and unanimously carried to **APPROVE** the Staffing Table Change for Municipal Court

Add                    1.00                    Municipal Court Sentencing Coordinator                    PM 75  
Fund Source: 11010011-01101-11000

\*Motion made by Representative Cobos, seconded by Representative Lozano and unanimously carried to **APPROVE** the request of El Paso Empowerment Zone to use amplification (Stage 1: 1 microphone, 3 amplifiers, 2 speakers and Stage 2: 1 microphone, 1 amplifier, 2 speakers) at Texas Ave. between Campbell and Noble on June 18, 2005 and June 19, 2005 from 11:00 a.m. to 9:00 p.m. for a street festival. Approximately 100 persons will take part and 10,000 spectators are anticipated. PERMIT # 05-061  
[Lizely Madrigal]

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\*Motion made by Representative Cobos, seconded by Representative Lozano and unanimously carried to **APPROVE** the request of El Paso Empowerment Zone to use amplification (Stage 1: 1 microphone, 3 amplifiers, 2 speakers and Stage 2: 1 microphone, 1 amplifier, 2 speakers) at Texas Ave. between Campbell and Noble on September 4, 2005 from 11:00 a.m. to 11:00 p.m. for a street festival. Approximately 100 persons will take part and 10,000 spectators are anticipated. PERMIT # 05-062  
[Lizely Madrigal]

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\*Motion made by Representative Cobos, seconded by Representative Lozano and unanimously carried to **APPROVE** the request of El Paso Empowerment Zone to use amplification (Stage 1: 1 microphone, 3 amplifiers, 2 speakers and Stage 2: 1 microphone, 1 amplifier, 2 speakers) at Texas Ave. between Campbell and Noble on October 29, 2005 from 11:00 a.m. to 9:00 p.m. for a street festival. Approximately 100 persons will take part and 10,000 spectators are anticipated. PERMIT # 05-063 [Lizely Madrigal]

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\*Motion made by Representative Cobos, seconded by Representative Lozano and unanimously carried to **APPROVE** the request of Phyllis Davis to block off Buckley between 5632 and 5653 on June 12, 2005 from 4:00 p.m. to 9:00 p.m. for a block party. Approximately 70 persons will take part. Barricades must be manned according to the State's "Manual of Uniform Traffic Control Devices". PERMIT # 05-064  
[Phyllis Davis]

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Motion made by Representative Cushing, seconded by Representative Ortega and unanimously carried that the following Ordinances, having been **INTRODUCED** pursuant to Section 3.9 of the El Paso City Charter, be advertised for public hearing:

An Ordinance amending Chapter 2.64 of the El Paso Municipal Code (City Employees' Pension Fund) to delete references regarding IRS Section 415, clarify elective employee buy back provisions by deleting provisions which are obsolete and renumbering Sections identified as portions of Sections 2.64.120, 2.64.140, 2.64.160, 2.64.190, 2.64.200, 2.64.260 and 2.64.400.

#### **PUBLIC HEARING WILL BE HELD ON JUNE 21, 2005**

Public Hearings will be held as part of the regular City Council meeting which begins at approximately 9AM. All interested persons present shall have an opportunity to be heard at that time. After the public hearings, Council may also delay taking action on Ordinances, no requirement is made by Section 3.9B of the El Paso City Charter to publish any further notice. Copies of all Ordinances are available for review in the City Clerk's office, 2 Civic Center Plaza, Monday through Friday, 8AM to 5PM.

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Motion made by Representative Cobos, seconded by Representative Ortega and carried to **DELETE** the discussion and action to direct the proper distribution of monies commonly referred to as "Palo Verde Rewards", in an amount of \$5.8 million dollars, and to evaluate the utilization of the Housing Authority of the City of El Paso (HACEP) as a source for distribution of a part of said funds, not to exceed 50%, since the HACEP serves as the most prominent and distinct institution, with the necessary existing resources and infrastructure, to execute part of these funds, not to exceed 50% to the intended benefit of "... low income customers of El Paso Electric Company . . .", absent the current existence of the intended recipient for such funds or any existing successor entity.

To additionally direct the proper distribution any remaining monies, to assist small business and commercial customers for demand side management programs, consistent with the intent of the agreement for said monetary distribution, and to prohibit the utilization of any such remaining monies for any public or quasi-public projects.

Any distributions as set forth would be subject to the direction and approval of the Mayor and City Council.

AYES: Representatives Cushing, Lozano, Cook, Ortega, Escobar, Rojas and Cobos

NAY: Representative Austin

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Motion made by Representative Ortega, seconded by Representative Lozano and carried to **POSTPONE FOUR (4) WEEKS** the discussion and action to direct the El Paso Zoo to relocate elephants Juno and Savannah to the Elephant Sanctuary in Tennessee or similar quality elephant sanctuary facility as soon as feasible, with arrangements to be made by September 1, 2005.

AYES: Representatives Lozano, Cook, Ortega and Escobar

NAYS: Representatives Austin, Rojas and Cobos

ABSTAIN: Representative Cushing

Mayor Joe Wardy and Representative Cobos commented.

Representative Ortega moved to postpone the item for four weeks, bring the item back as a Legislative Review Committee of the Whole meeting with the new City Council Members. Representative Lozano seconded, amended Representative Ortega's motion to include City staff members in the Legislative Review Committee of the Whole meeting, then moved to delete the item. No vote was taken.

Mayor Wardy noted that Representative Austin would be submitting written remarks for inclusion in the record. (Written remarks on file in the City Clerk's Office)

Additionally, Representative Austin submitted to the City Clerk in hard copy the 5-page conclusion of a 303-page report done by scientists from Oxford University commissioned by the Royal Society for the Prevention of Cruelty to Animals (the "RSPCA" - Great Britain's humane society), entitled "A Review of the Welfare of Zoo Elephants in Europe." (Document on file in the City Clerk's Office)

The following members of the public commented:

1. Ms. Carol Buckley, Executive Director of the Elephant Sanctuary, Tennessee
2. Ms. Angie White, President of the El Paso Zoological Society
3. Mr. Mark C. Reed, Executive Director of the Sedgwick County Zoological Society, Wichita, Kansas
4. Mr. Steve McCusker, citizen of the City of San Antonio, Texas

The following City staff members commented:

1. Dr. Lea Hutchinson, Interim Zoo Director
  2. Ms. Joyce Wilson, City Manager
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Motion made by Representative Cobos, seconded by Representative Ortega and carried to **DELETE** the discussion and action on a resolution to authorize the City Manager to accept approximately \$5.8 million in Palo Verde Rewards from the El Paso Electric Company, determine how the Palo Verde Rewards will be used, and establish any requisite criteria for directing the use and accounting of the Palo Verde Rewards.

AYES: Representatives Cushing, Lozano, Cook, Ortega, Escobar, Rojas and Cobos

NAY: Representative Austin

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Motion made by Representative Cushing, seconded by Representative Cobos and carried to **POSTPONE TWO (2) WEEKS** an Ordinance authorizing the City Manager to sign a Special Warranty Deed conveying to SFPP, L.P., a subsidiary of Kinder Morgan, G.P., Inc., land totaling approximately 35 acres out of a portion of Tract 5D, Section 21, Block 80, Township 1, Texas and Pacific Railway Company Surveys, and a portion of Tract 1, Section 28, Block 80, Township 1, Texas and Pacific Railway Company Surveys, El Paso, El Paso County, Texas, located in northeast El Paso near Ashley Road and Dyer Street.

Representative Lozano was not present for the vote.

Representatives Cushing, Cobos, Cook and Austin commented.

Mr. David Corman, Kinder Morgan, G.P., Inc. commented.

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\*Motion made by Representative Cobos, seconded by Representative Lozano and unanimously carried to **POSTPONE ONE (1) WEEK** an Ordinance amending Title 12 (Vehicles and Traffic), Chapter 12.88 (Schedules), Section 12.88.180 (No Stopping or Standing - Tow Away Zone), of the El Paso Municipal Code, to delete the Subsection identifying the No Stopping or Standing Tow-Away Zone on Overland Avenue, South side only, between Ochoa Street and Virginia Street. The Penalty as Provided in Section 12.84.010 Of the El Paso Municipal Code.

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\*Motion made by Representative Cobos, seconded by Representative Lozano and unanimously carried to **POSTPONE ONE (1) WEEK** an Ordinance amending Title 12 (Vehicles and Traffic), Chapter 12.88 (Schedules), Section 12.88.030 (Schedule III, Parking Prohibited At All Times on Certain Streets), of The El Paso Municipal Code, To Add A New Subsection Parking Prohibited at All Times on the East Side of South Virginia Street from Overland Avenue South to the Railroad Tracks. The Penalty as Provided in Section 12.84.010 Of the El Paso Municipal Code.

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Motion made by Representative Cobos, seconded by Representative Cushing and unanimously carried to **POSTPONE TWO (2) WEEKS** an Ordinance amending Chapter 2.64 (City Employees' Pension Fund) of the El Paso Municipal Code regarding the definition of final pay in the pension calculation.

Representative Lozano was not present for the vote.

Mr. Robert Ash, Pension Administrator, commented.

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**ORDINANCE 16064**

The City Clerk read an Ordinance entitled: **AN ORDINANCE GRANTING SPECIAL PERMIT NO. ZON05-00018, TO ALLOW FOR A PARKING REDUCTION ON THE PROPERTY DESCRIBED AS THE SOUTH 25 FEET OF LOT 1, BLOCK 118, CAMPBELL ADDITION, EL PASO, EL PASO COUNTY, TEXAS PURSUANT TO SECTION 20.64.175 OF THE EL PASO MUNICIPAL CODE. THE PENALTY BEING AS PROVIDED IN CHAPTER 20.68 OF THE EL PASO MUNICIPAL CODE.**

The City Clerk called for public comment. There was no public comment.

Motion duly made by Representative Cobos, seconded by Representative Austin, that the Ordinance be **ADOPTED**. Whereupon the Mayor ordered that a vote be taken on the passage and adoption of the Ordinance which when so done resulted as follows:

AYES: Council Members Austin, Cushing, Cook, Ortega, Escobar, Rojas and Cobos

NAYS: None Absent: None

NOT PRESENT FOR THE VOTE: Council Member Lozano

Whereupon the Mayor ordered that the vote having been cast in favor of the Ordinance, the same be and the same is hereby **ADOPTED**.

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**ORDINANCE 16065**

The City Clerk read an Ordinance entitled: **AN ORDINANCE CHANGING THE ZONING OF A PORTION OF LOT A, BLOCK 129, EASTWOOD HEIGHTS UNIT K, EL PASO, EL PASO COUNTY, TEXAS FROM A-O (APARTMENT/OFFICE) TO A-3 (APARTMENT) AND IMPOSING CERTAIN CONDITIONS. THE PENALTY BEING AS PROVIDED IN CHAPTER 20.68 OF THE EL PASO MUNICIPAL CODE.**

Mr. George G. Sarmiento, Director of Planning, Research and Development, gave a Powerpoint presentation and commented. He noted that there was opposition to the zoning change request and read into the record the following amendments to the Ordinance language:

1. The maximum number of apartment units on the subject property shall not exceed 150.
2. Ingress only shall be permitted off of Saigon Avenue. No egress onto Saigon Avenue shall be permitted.
3. Any building structure erected on the subject property shall be set back a minimum of eighty feet from Saigon Avenue.

Ms. Lisa A. Elizondo, City Attorney, commented.

Representatives Ortega, Rojas, Cushing and Austin commented.

The following members of the public commented:

1. Mr. Jose Gonzalez
2. Mr. Conrad Conde, Conde, Inc.
3. Mr. Fred Guest

The City Clerk called for further public comment. There was no further public comment.

**1<sup>ST</sup> MOTION:**

Motion made by Representative Ortega, seconded by Representative Lozano and unanimously carried to **AMEND** the Ordinance language as read into the record by Mr. George G. Sarmiento, Director of Planning, Research and Development.

**2<sup>ND</sup> AND FINAL MOTION:**

Motion duly made by Representative Ortega, seconded by Representative Lozano, that the Ordinance be **ADOPTED, AS AMENDED**. Whereupon the Mayor ordered that a vote be taken on the passage and adoption of the Ordinance which when so done resulted as follows:

AYES: Council Members Austin, Cushing, Lozano, Cook, Ortega, Escobar, Rojas and Cobos  
NAYS: None Absent: None

Whereupon the Mayor ordered that the vote having been cast in favor of the Ordinance, the same be and the same is hereby **ADOPTED AS AMENDED**.

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***ADDITION TO THE AGENDA***

Item: Discussion and action to ensure compliance on the part of the City Manager with Council directives in the area/s of vendor payments as set forth at the 24 May 2005 City Council Meeting, found at agenda item 14a, to wit, "Discussion and action to instruct the City Manager to either: 1) make full and complete payment of outstanding invoices for services performed for the City of El Paso by a legitimate vendor, or, in the alternative, 2) provide complete and unambiguous written response to the vendor setting out the alleged reason/s for the non-payment of the invoices. Absent immediate and proper remedial action/s in this area on the part of the City Manager, the City could be subjected to undue and unnecessary public criticism."

Mayor Joe Wardy and Representatives Cushing, Escobar, Ortega, Cook, Cobos and Austin commented.

The following City staff members commented:

1. Ms. Joyce Wilson, City Manager
2. Mr. Jorge Villegas, Assistant City Attorney
3. Ms. Carmen Arrieta-Candelaria, Comptroller
4. Ms. Terri Cullen-Garney, Deputy City Attorney, stated for the record that if paperwork was provided to substantiate an invoice it could be paid very quickly.
5. Ms. Lisa A. Elizondo, City Attorney

The following members of the public commented:

1. Mr. Lane Reedman, attorney representing Viva Environmental & Engineering, commented.
2. Ms. Lisa Turner

Representative Cushing moved to pay the invoice for the household hazardous waste to the vendor. Representative Lozano seconded. No vote was taken.

**1<sup>ST</sup> MOTION:**

Motion made by Representative Austin, seconded by Representative Rojas to amend Representative Cushing's motion to place a cap of \$25,000.00 at this time without prejudice for the vendor to seek the balance, with Council making no determination on the balance.

AYES: Representatives Austin, Cook, Escobar and Rojas  
NAYS: Representatives Cushing, Lozano, Ortega, Cobos and Mayor Wardy

Mayor Joe Wardy voted NAY to break the tie. The motion fails.

**2<sup>ND</sup> MOTION:**

Motion made by Representative Cushing, seconded by Representative Lozano and carried to pay the invoice for the household hazardous waste to the vendor.

AYES: Representatives Cushing, Lozano, Ortega, Cobos and Mayor Wardy

NAYS: Representatives Austin, Cook, Escobar and Rojas

Mayor Joe Wardy voted AYE to break the tie. The motion carries.

**3<sup>RD</sup> AND FINAL MOTION:**

Motion made by Representative Cushing, seconded by Representative Ortega and unanimously carried to have the vendor and the City Attorney's Office get together and resolve the outstanding invoices involved with the Sun Metro remediation invoices.

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Motion made by Representative Cobos, seconded by Representative Ortega and carried to **DELETE** the discussion and action to direct the office of the City Attorney to enter into discussions and or negotiations with proper parties to investigate the legal ramifications of allowing for the distribution of part, if not all of the monies related to the Palo Verde Rewards, i.e. 5.8 million dollars, to be strictly dedicated to either direct payment/s to the ratepayers in the form of a bill reduction, or for the utilization for the payment of existing bond debt of the City of El Paso.

AYES: Representatives Cushing, Lozano, Cook, Ortega, Escobar, Rojas and Cobos

NAY: Representative Austin

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Motion made by Representative Lozano, seconded by Representative Cushing and unanimously carried to **ADJOURN** this meeting at 11:57 a.m.  
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**APPROVED AS TO CONTENT:**

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Richarda Duffy Momsen, City Clerk